IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

WP(C).No. 31446 of 2003(R)

PETITIONER:

A.C. PRABHAKARAN NAIR, LALITHA BHAVAN,
NETHAJI P.O., POTHENCODE, THIRUVANANTHAPURAM.

BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR

RESPONDENTS:

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1. **STATE OF KERALA, REPRESENTED BY**
   ITS CHIEF SECRETARY, SECRETARIAT,
   THIRUVANANTHAPURAM.

2. **THE DISTRICT COLLECTOR,**
   THIRUVANANTHAPURAM.

3. **THE PRINCIPAL SECRETARY,**
   GENERAL ADMINISTRATION (FFPA)
   DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. V.T.K. MOHANAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.31446/2003 R

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE PERSONNEL KNOWLEDGE CERTIFICATE ISSUED BY SRI. K.V.PARAMESWARAN NAIR, WHO WAS A PROMINENT FREEDOM FIGHTER AND ALSO A RECIPIENT OF CENTRAL AND STATE FREEDOM FIGHTERS' PENSION.**

EXT.P2: **COPY OF THE PERSONNEL KNOWLEDGE CERTIFICATE ISSUED BY SRI. M.K.SADANANDAN, WHO WAS A PROMINENT FREEDOM FIGHTER AND ALSO A RECIPIENT OF CENTRAL AND STATE FREEDOM FIGHTERS' PENSION.**

EXT.P3: **COPY OF THE CERTIFICATE DTD. 10/10/1966 ISSUED BY THE SUPERINTENDENT, CENTRAL PRISON CERTIFYING THAT SRI. K.V.PARAMESWARAN NAIR WAS CONVICTED AND SENTENCED FOR 13 MONTHS IN C.C.64/114 AND RELEASED ON 20/9/1124.**

EXT.P4: **COPY OF THE CERTIFICATE ISSUED BY ONE SADANANDAN HIMSELF THAT HE HAD UNDERGONE IMPRISONMENT FOR MORE THAN 2 YEARS.**

EXT.P5: **COPY OF THE LETTER NO.65725/FFPB1/01/GAD DTD. 3/01/2003 OF THE 3RD RESPONDENT.**

EXT.P6: **COPY OF THE REPRESENTATION DTD. 3/04/2003 SUBMITTED BY THE PETITIONER BEFORE THE HON'BLE CHIEF MINISTER OF KERALA.**

EXT.P7: **COPY OF THE LETTER NO.G2.29236/03 DTD. 19/06/2003 OF THE 2ND RESPONDENT.**

EXT.P8: **COPY OF THE PETITION TO THE 2ND RESPONDENT SUBMITTED BY THE PETITIONER.**

EXT.P9: **COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE CHIEF JUDICIAL MAGISTRATE'S COURT, THIRUVANANTHAPURAM DTD. 24/07/2001 AND THE ENDORSEMENT MADE THEREON BY THE COURT BELOW.**

EXT.P10: **COPY OF THE LETTER NO.36459/FFPB1/03/GAD. DTD. 30/08/2003 OF THE 3RD RESPONDENT.**

EXT.P11: **COPY OF THE KERALA FREEDOM FIGHER'S PENSION RULES.**

/TRUE COPY/

P.A.TO JUDGE

KSS

T.R.RAMACHANDRAN NAIR, J.

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W.P.(C).No. 31446 of 2003 (R)

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Dated this the 25th day of July, 2007

J U D G M E N T

The petitioner has approached this Court seeking for grant of State Freedom Fighters Pension based on the clauses in the relevant scheme. According to the petitioner in connection with the Sucheendram Firing he was forced to remain underground from 25/08/1946 to 05/05/1947. He was not prematurely released from police lockup on account of any oral or written apology tendered by him. Exts.P1 and P2 are Personal Knowledge Certificates issued by two prominent freedom fighters, namely, Sri.K.V.Parameswaran Nair and Sri.M.K.Sadanandan, who are also recipients of Central and State Government Freedom Fighters Pension.

2. Even though his application was submitted on 30/07/2001, he was given a reply as per Ext.P5 stating that as his application is not supported by any records from the jail, his application is

rejected. The petitioner, thereafter, submitted Ext.P6 representation to the Hon'ble Chief Minister of Kerala. Again by Ext.P7, the second respondent directed him to produce documents including official records to prove the nature of the sufferings he had undergone before 30/06/2003. This was replied by Ext.P8. Even though the petitioner tried to obtain records from the Chief Judicial Magistrate Court, Thiruvananthapuram, with respect to the order issuing arrest warrant against him in C.C.No.98/1947, the same was rejected as no records for the said period was available in the court. Ultimately, by Ext.P10, he was informed that his application cannot be considered for want of acceptable certificates and other evidence. It is by challenging the same this writ petition has been filed.

3. The third respondent has filed a detailed counter affidavit. The stand taken is that the certificates produced by the petitioner, namely, that of Sri.K.V.Parameswaran Nair and Sri.M.K.Sadanandan, are not acceptable. But it is noticeable to

state that even though in the counter affidavit it is stated that Sri.K.V.Parameswaran Nair was sentenced for less than one year, going by the certificate he is a person who had suffered actual imprisonment for more than two years. Therefore, as far as that aspect is concerned, the stand of the third respondent appears to be not correct.

4. The third respondent has a further case that the Sucheendram firing is not one of the movements recognised for grant of pension under the scheme framed by the State. Therefore, even though the reasons stated by the authorities in Ext.P5 and P10 may not be correct to reject the application of the petitioner, since the movement itself is not recognised by the Government for grant of Kerala Freedom Fighters Pension no purpose will be served by allowing the application on other grounds. Therefore, the writ petition is dismissed. No costs.

T.R.RAMACHANDRAN NAIR,
Judge

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